

EXECUTIVE ORDER

No. 84-8

WHEREAS, the Congress of the United States passed the Deficit Reduction Act of 1984 (hereafter "H.R. 4170"); and

WHEREAS, commencing January 1, 1984, H.R. 4170 imposes limitations on the aggregate amount (termed therein as state ceilings) of "private activity bonds" issued in each state in any calendar year that may be regarded as exempt from Federal income taxation; and

WHEREAS, H.R. 4170 establishes a formula for allocation of the State Ceiling, but the formula for allocation established by H.R. 4170 does not serve the best interests of the State of Arizona; and

WHEREAS, H.R. 4170 provides that the Governor of any state may proclaim a different formula for allocating the state ceiling amount among the issuers of private activity bonds; and

WHEREAS, it is in the best interests of the economic and educational development of Arizona that action be taken to allocate the State Ceiling in a clear and effective manner;

NOW, THEREFORE, I, Bruce Babbitt, Governor of the State of Arizona, do hereby proclaim and order as follows:

Section 1. Definitions.

- (a) "Bond" or "Bonds" or "Private Activity Bonds" shall mean any obligation the interest on which is exempt from tax under Section 103(a) of the Code and which is:
- (i) an industrial development bond, as defined in Section 103(b) of the Code (including those for pollution control, other exempt facilities and industrial parks, except as noted below), or
 - (ii) student loan bonds as defined in Section 103(n)(8) of the Code ("Student Loan Bonds"); but excluding:
 - (1) obligations described in Section 103(b)(4)(A) of the Code (multifamily residential rental property) and housing program obligations under Section 11(b) of the United States Housing Act of 1937,
 - (2) obligations described in Section 103(b)(4)(C) or (D) of the Code but only if the property described in such subparagraphs is owned, for federal tax purposes, by or on behalf of a governmental unit and constitutes (a) convention or trade show facilities, or (b) airports, docks, wharves or mass commuting or storage and training facilities directly related to the foregoing,
 - (3) obligations issued to refund other obligations to the extent that the amount of such obligations does not exceed the amount of the refunded obligation (but in the case of qualified scholarship funding bonds, only if the maturity date of the refunding obligation does not exceed the later of 17 years from issuance or the maturity of the original obligation refunded);

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and excluding also, by reason of the effective date provisions of Section 631 of H.R. 4170:

- (4) obligations issued before June 19, 1984,
- (5) obligations issued before January 1, 1985, pursuant to an inducement resolution or other comparable preliminary approval received before June 19, 1984; and
- (6) obligations referred to in Section 631(d) (1), (2) or (3) of H.R. 4170;

and further excluding any obligations as are not subject to the State Ceiling under law or regulation hereafter enacted.

- (b) "Business Day" shall mean between the hours of 8:00 a.m. and 5:00 p.m. any day of the week other than a Saturday, Sunday or a day which shall be in the State a legal holiday or a day on which the Office is authorized or obligated by law or executive order to close.
- (c) "Certificate of Closing" shall mean the Certificate of Closing in the form of Exhibit A attached hereto and incorporated herein by this reference to be filed with the Office declaring that Bonds were Issued.
- (d) "Code" shall mean the Internal Revenue Code of 1954, as amended.
- (e) "Confirmation" shall mean the Allocation Confirmation which confirms an allocation to a Project, and in the form of Exhibit B attached hereto and incorporated herein by this reference.
- (f) "Director" shall mean the director of the Office and any other person or persons at the time authorized to act on behalf of the Office.
- (g) "Issued" shall mean delivered and paid for.
- (h) "Issuer" shall mean any entity or person which has authority to issue obligations the interest on which is exempt from federal income taxation pursuant to Section 103 of the Code.
- (i) "Notice of Intent" shall mean either of the Notices of Intent to be filed, as applicable, with the Office in the forms of Exhibits C and D attached hereto and incorporated herein by this reference.
- (j) "Office" shall mean the Office of Economic Planning and Development, and its successors, if any.
- (k) "Project" shall mean any construction, planned expenditure or other activity (including costs of issuance, capitalized interest and discounts) financed with Private Activity Bonds and located in the State or directly benefitting residents of the State.
- (l) "Request" shall mean the Request for Allocation to be filed with the Office in the form of Exhibit B attached hereto and incorporated herein by this reference.
- (m) "State" shall mean the State of Arizona.

- (n) "State Ceiling" shall mean the amount determined to be the State Ceiling for the State pursuant to Section 103(n) (4) of the Code for each calendar year commencing in 1984.
- (o) "Year" shall mean the calendar year.
- (p) "1984 State Ceiling" shall mean the amount determined as the State Ceiling for calendar year 1984.

Section 2. Allocation.

The allocation formula set forth in this Order will allocate an amount not to exceed \$300,000,000 of the 1984 State Ceiling. Provisions for allocating the remaining 1984 State Ceiling and any excess portion of the 1984 State Ceiling not used pursuant to this Order will be set forth in a subsequent Order.

Section 3. Office of Economic Planning and Development Designated as State Registry.

- (a) The Office is hereby designated as the exclusive state registry for (i) Requests, (ii) recordation of Confirmations (whether outstanding or lapsed), (iii) Certificates of Closing, (iv) recordation of all carry-forward amounts for specific projects, and (v) such other records required for the administration of this Order.
- (b) Requests and Confirmations under this Order shall be dated and numbered by the Director in the order received and issued, respectively.

Section 4. Obtaining and Issuing Confirmations.

- (a) Subject to the provisions of Section 5 hereof, an allocation of the \$300,000,000 portion of the 1984 State Ceiling covered by this Order may be obtained prior to the sale or issuance of such Bonds by (i) the filing by or on behalf of the Issuer with the Office of a Request, (ii) the filing with the Office of evidence of an inducement resolution or other official action taken by the Issuer in connection with the Project, and (iii) the issuance by the Director of a Confirmation. Requests filed by mail shall be deemed by the Director as filed with the Office at 5:00 p.m. the day the Request is actually received at the Office. All Requests received on the same date and at the same time shall be dated and numbered by lot and Confirmations to said Requests shall be issued in a manner selected by the Director.
- (b) A Request by the Issuer may be prepared on behalf of the Issuer by the Issuer, bond counsel or user.
- (c) A Confirmation shall expire and no Bonds shall be deemed to have been allocated any portion of the 1984 State Ceiling unless the applicable Bonds have been Issued and a Certificate of Closing has been filed (and not postmarked) with the Office no later than thirty (30) days after the date of the Confirmation or the first Business Day after the thirtieth (30th) day, or prior to 5:00 p.m., December 18, 1984, whichever first occurs.
- (d) The Confirmation shall assure allocation for an amount of such Bonds not in excess of the amount set forth in the Request, but in no event shall a Confirmation or Confirmations allocate to a Project an amount greater than \$30,000,000. No Confirmations shall be issued pursuant to this Order for Student Loan Bonds, as defined in Section 103(n) (8) of the Code. Student Loan Bonds, Requests in

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excess of \$30,000,000 and Requests for Projects described in Sections 7 and 8 of this Order will be considered in a subsequent executive order.

- (e) The Director shall decline to issue Confirmations at such time as the aggregate amount of Bonds under all Confirmations previously issued and not expired, together with the proposed issue of Bonds as to which a Request has been received, would exceed the \$300,000,000 of the 1984 State Ceiling covered by this Order.
- (f) The Director shall attempt to issue Confirmations within one Business Day of receipt and shall issue in the order in which fully and properly completed Requests which may be issued within the limitations of Subsection 4(e) of this Order are received. The Director shall not be responsible for the return of Confirmations to the filing party. A confirmation will be available for pick-up at the Office after issuance of the Confirmation.

Section 5. Allocation of a Portion of the 1984 State Ceiling to Bonds in Order of Confirmation.

To the extent that the 1984 State Ceiling for the State is applicable to Bonds Issued in all or any part of calendar year 1984, a portion of the 1984 State Ceiling in an amount which shall not exceed \$300,000,000 is hereby, and shall be, allocated and made available to all Issuers of such Bonds within the State, regardless of whether such Issuers are at the state level or at the local level, to all Bonds, receiving an inducement resolution on or before November 16, 1984, whether Issued prior to or after the date of this Order, in the order and amounts set forth in Confirmations issued by the Director, all as provided in and subject to the conditions of this Order, notwithstanding any other allocation, priority, or aspect of Federal law that can be overcome by this Order.

Section 6. Effectiveness and Reliance.

This Order and allocations issued pursuant to this Order may be relied upon, to the extent herein provided, by Issuers of Bonds, beneficiaries of the proceeds from and owners of such Bonds, with respect to all Bonds Issued during the period from and including January 1, 1984, to and including the date of issuance of a subsequent executive order of the Governor of the State or the effective date of a law enacted by the Legislature of the State with respect to the same subject, or to such subsequent date as is provided for in such subsequent executive order or law. If necessary or desirable, this Order will be reissued or modified in view of any regulations, ruling or other act of the Department of the Treasury or subsequent enactment of Congress affecting the State Ceiling so as to accord the full protection contemplated by this Order to Bonds Issued or effective Confirmations issued prior thereto. Subject to the foregoing, this Order may be amended or reissued in amended form at any time.

Section 7. Confirmation of 1984 State Ceiling for Issuance of Bonds in Subsequent Years.

Notice of Intent may be filed on or before December 1, 1984, with the Office by an Issuers, bond counsel or user, with respect to Bonds subject to the 1984 State Ceiling and for any project described in Section 103(b)(4) or (5) of the Code, or comprising Student Loan Bonds, which are expected to be issued in years subsequent to 1984 and consistent with the election provided for in Section 103(n)(10) of the Code, to carry forward an unused portion of the 1984 State Ceiling. Such Notice of Intent shall be

considered and allocations shall be issued to such Bonds subsequent to December 18, 1984, pursuant to executive order and in a manner consistent with Section 103(n)(10) of the Code and regulations thereunder, notwithstanding anything else in this Section. Such Notices of Intent and allocations shall not be subject to the provisions of Sections 4 and 5 of this Order. Issuers shall not file elections with the Federal Government under Section 103(n)(10) of the Code until an allocation has been issued by the Office under this Section for the Bonds pertaining to a Project. Failure to file a Notice of Intent may result in the exclusion of the Project from allocations to Issuers of any portion of the 1984 State Ceiling.

Section 8. Priority Projects for Subsequent Years.

If, on or prior to August 17, 1984, an issuing authority received written notification from a "substantial user" stating the intention to claim rights, under Section 631(a)(3) of H.R. 4170, to be accorded priority as to a Project which is eligible for the carryforward under Section 103(n)(10) of the Code and with respect to which the inducement and commencement of construction or binding contracts to incur significant expenditures occurred prior to October 19, 1983, the issuing authority shall file, or cause to be filed on or before December 1, 1984, with the Office a Notice of Intent under this Section 8 (to be accompanied by a copy of such written notification from the substantial user) and the inducement resolution or other comparable preliminary approval to which it relates. Failure to file the Notice of Intent and accompanying documents may result in the exclusion of the Project from allocations to Issuers of any portion of the 1984 State Ceiling.

Section 9. Form and Manner.

The Office may do all other things necessary or desirable to carry out the purpose of this Order, including the issuance of certifications regarding the aggregate amounts of allocations on Bonds.

Section 10. Limitation of Liability.

No pecuniary recourse shall be had for any claim based upon any obligation contained herein against the State or the Office or any of their past, present or future officers, directors, employees or agents.

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EXHIBIT

Section 11. Effective Date.

This Order shall be effective as of October 12, 1984.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Burr Baltes

GOVERNOR



DONE at the Capitol in Phoenix on this twelfth day of October in the Year of Our Lord One Thousand Nine Hundred and Eighty-four and of the Independence of the United States of America the Two Hundred and Eighth.

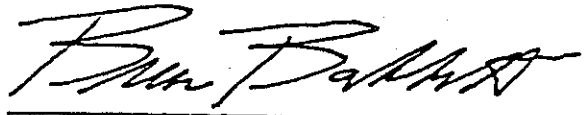
ATTEST:

Rae Ralston
Secretary of State

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CERTIFICATION

I, Bruce Babbitt, Governor of the State of Arizona, do hereby certify that the formula for allocation of the State Ceiling set forth in the Executive Order dated October 12, 1984, was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.



Bruce Babbitt

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IMPORTANT: To prevent expiration of a Confirmation there must be filed an original and two copies of this Certificate before the earlier of thirty days following the date of the Confirmation or by 5:00 p.m. on December 18, 1984, along with proof of delivery and payment of the Bonds.

Do Not Write in This Space:

IF MAILED: IDB UNIT
State of Arizona Office of Economic
Planning and Development
Executive Tower, 4th Floor
1700 West Washington
Phoenix, Arizona 85007
(602) 255-5705

CERTIFICATE OF CLOSING

The undersigned officer of or bond counsel for the Issuer of the within described Bonds hereby certifies that such Bonds have been Issued (as said term is defined in the Executive Order) in the principal amount and for the project described below. Proof of delivery and payment of the Bonds is attached hereto.

DATE OF INDUCEMENT: _____, 19__

DATE OF CLOSING: _____, 198__

ISSUER:

PROJECT:

BOND COUNSEL:

DATE OF CONFIRMATION: _____, 198__

PRINCIPAL AMOUNT CONFIRMED	\$ _____
PRINCIPAL AMOUNT ISSUED	\$ _____
CONFIRMED AMOUNT RELEASED	\$ _____

By: _____
Title: _____
(Bond Counsel May Sign)

ADVICE OF FILING

The undersigned hereby confirms the filing of this Certificate of Closing.

OFFICE OF ECONOMIC PLANNING AND
DEVELOPMENT

Dated: _____

By _____

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IMPORTANT: File an Original And Two Copies

Do Not Write in This Space:

IF MAILED: IDB UNIT
State of Arizona Office of Economic
Planning and Development
Executive Tower, 4th Floor
1700 West Washington
Phoenix, Arizona 85007
(602) 255-5705

REQUEST FOR ALLOCATION

THIS FORM MUST BE FULLY COMPLETED AND EXECUTED TO BE VALID AND EVIDENCE OF THE ISSUER'S PRELIMINARY INDUCEMENT OR OTHER OFFICIAL ACTION RELATING TO THE PROJECT MUST BE ATTACHED TO THIS REQUEST.

Please take notice that the following named Issuer hereby requests a Confirmation of an allocation of the 1984 State Ceiling in the amount and for the project set forth below, to be effective for the period beginning on the date of issuance thereof and ending on the earlier of the 30th day following such issuance or December 18, 1984:

ISSUER (full name): _____
DATE INDUCEMENT RESOLUTION ADOPTED: _____, 198_.
GENERAL DESCRIPTION OF PROJECT: _____

Name and Address of Bond Counsel
(Specify Individual Handling File) _____

Phone No. () _____

Requested principal amount of 1984 State Ceiling to be allocated: \$ _____

By: _____
Title: _____

ALLOCATION CONFIRMATION

The undersigned hereby confirms an allocation of the 1984 State Ceiling of the principal amount for the Issuer and the Project set forth above.

Confirmation of an allocation does not express or imply an opinion for Project eligibility for such Confirmation under the Executive Order or any other State or federal statute or regulation. The Confirmation issued herein was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

OFFICE OF ECONOMIC PLANNING AND
DEVELOPMENT

Dated: _____

By _____

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IMPORTANT: File an Original And Two Copies

Do Not Write in This Space:

IF MAILED: IDB UNIT
State of Arizona Office of Economic
Planning and Development
Executive Tower, 4th Floor
1700 West Washington
Phoenix, Arizona 85007
(602) 255-5705

NOTICE OF INTENT WITH RESPECT TO A PRIORITY PROJECT

Please take notice that the following named Issuer has received a notice* from a substantial user of the Project described below that such Project is eligible under section 631(a)(3) of the Deficit Reduction Act of 1984 for a priority allocation of any carryforward of amounts allocated to the Issuer from the 1984 State Ceiling under section 103(n)(10) as added to the Internal Revenue Code of 1954 by such Act. This notice is filed in accordance with section 8 of Executive Order No. 84-8, and requests an allocation of the 1984 State Ceiling for the purpose of making an election in the manner permitted by section 103(n)(10) of such Code specifying such Project and, if such an allocation is granted, the Issuer agrees to make such election. This request is with respect to the Project described and the principal amount of bonds set forth below.

ISSUER (full name): _____
DATE INDUCEMENT RESOLUTION ADOPTED: _____, 198_.*
GENERAL DESCRIPTION OF PROJECT: _____

Name and Address of Bond Counsel
(Specify Individual Handling File) _____

Phone No. () _____

Principal amount of Industrial Development Bonds to be allocated: \$ _____

By: _____

Title: _____

*Attach copies of the notice from the substantial user, evidence of the inducement resolution or other official action and evidence that before or on October 19, 1983, construction of such Project began or the substantial user had entered into a binding contract to incur significant expenditures with respect to the Project.

THIS FORM MUST BE FULLY COMPLETED AND EXECUTED TO BE VALID.

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IMPORTANT: File an Original And Two Copies

Do Not Write in This Space:

IF MAILED: IDB UNIT
State of Arizona Office of Economic
Planning and Development
Executive Tower, 4th Floor
1700 West Washington
Phoenix, Arizona 85007
(602) 255-5705

NOTICE OF INTENT FOR CARRYFORWARD PROJECTS

Please take notice that the following named Issuer intends to issue Industrial Development Bonds or Student Loan Bonds during 1985 or subsequent years relying on an allocation of the 1984 State Ceiling based on a carryforward of a portion of the 1984 State Ceiling allocated to it and requests an allocation of the 1984 State Ceiling for such purpose. This request is with respect to the Project and for the principal amount of bonds specified below.

ISSUER (full name): _____
DATE INDUCEMENT RESOLUTION ADOPTED: _____, 198__.
GENERAL DESCRIPTION OF PROJECT: _____

Name and Address of Bond Counsel
(Specify Individual Handling File) _____

Phone No. () _____

Principal amount of Industrial Development Bonds to be allocated: \$ _____

By: _____

Title: _____

THIS FORM MUST BE FULLY COMPLETED AND EXECUTED TO BE VALID AND EVIDENCE OF AN INDUCEMENT RESOLUTION OR OTHER OFFICIAL ACTION TAKEN IN CONNECTION WITH THE PROJECT MUST BE ATTACHED HERETO.

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